

AMENDED IN SENATE APRIL 18, 2012

**SENATE BILL**

**No. 1144**

---

**Introduced by Senator Strickland**

February 21, 2012

---

*An act to amend Sections 15002.5 and 15029 of the Government Code, to amend Sections 11100, 11106.5, 11107, 11107.1, 11165.3, 11167, 11367.5, 11643, and 11647 of, and to amend the heading of Chapter 7 (commencing with Section 11450) of Division 10 of, the Health and Safety Code, to amend Section 1197.2 of the Labor Code, and to amend Sections 19.8 and, 243, 273.5, 290.015, 836, 916.2, 964, 1048, 3000.08, 3000.09, 3001, 13885.1, and 13887.2 of the Penal Code, relating to crimes.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1144, as amended, Strickland. Crimes: public safety omnibus.

(1) Existing law requires that any employer who willfully fails to pay and has the ability to pay a final court judgment or final order issued by the Labor Commissioner for all wages due to an employee who has been discharged or who has quit within 90 days of the date that the judgment was entered or the order became final is guilty of a misdemeanor. If the total amount of wages due is less than \$1,000, upon conviction, the employer is required to be fined not less than \$1,000 nor more than \$10,000, or imprisoned in a county jail for not more than 6 months, for each offense. Under existing law, a misdemeanor, unless otherwise specified, is punishable by imprisonment in a county jail not exceeding 6 months, or a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would, if the total amount of wages due is exactly \$1,000, increase the maximum fine from no more than \$1,000, to an amount not less than \$1,000, nor more than \$10,000.

(2) Existing law authorizes a prosecutor to file specified misdemeanors, such as illegal gaming, as infractions unless the defendant elects to have the case proceed as a misdemeanor, and authorizes the court, with the consent of the defendant, to determine that the offense is an infraction. Existing law requires that cases on a court's calendar be disposed of in a certain order, such as prosecution for felonies where the defendant is in custody being tried first.

This bill would make nontechnical changes to these provisions by updating cross-references and deleting obsolete provisions.

(3) *Existing law makes the crime of battery committed against any one of certain persons who are or who have been in a specified domestic relationship with the defendant, such as a spouse or former spouse, punishable by a fine or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Existing law makes it a felony for a person to willfully inflict corporal injury resulting in a traumatic condition upon a person who is or has been in a specified domestic relationship with the defendant, such as a spouse or a cohabitant, punishable by imprisonment in the state prison or a county jail, or a fine, or both imprisonment and a fine. Existing law also requires a peace officer, when that officer is called out on a domestic violence call, to make a good faith effort to inform a victim of his or her right to make a citizen's arrest.*

*This bill would create an exception to the provision requiring a peace officer to make a good faith effort to inform a victim of his or her right to make a citizen's arrest when the officer makes an arrest for the crimes of domestic violence described above.*

(4) *Existing law provides that a grand juror who is a current employee of, or a former or retired employee last employed within the prior 3 years by, an agency within the investigative jurisdiction of the civil grand jury to inform the foreperson and court of that fact and recuse himself or herself from participating in any grand jury civil investigation of that agency.*

*This bill would define the term "agency" for purposes of that provision to mean a department or operational part of a government entity, such as a city or county, as specified.*

(5) *This bill would also make technical and clarifying changes.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 15002.5 of the Government Code is*  
2     *amended to read:*

3     15002.5. The Attorney General may arrange and classify the  
4     work of the Department of Justice, and consolidate, abolish, or  
5     create divisions, bureaus, branches, sections or units within the  
6     department. Any statutory or other reference to the Office of the  
7     Attorney General, the State Bureau of Criminal Identification and  
8     Investigation, the Division of Narcotic Law Enforcement, or the  
9     ~~Division~~ Bureau of Gambling Control shall be construed to refer  
10    to the division, bureau, branch, section or unit within the  
11    department which is performing the functions referred to; and no  
12    such function shall be abolished without express statutory authority.

13    *SEC. 2. Section 15029 of the Government Code is amended to*  
14    *read:*

15    15029. (a) The Crack Down Task Force Program is hereby  
16    created within the Department of Justice with responsibility for  
17    establishing, conducting, supporting, and coordinating crack down  
18    task forces composed of state and local law enforcement agencies  
19    targeting the investigation and apprehension of the Colombian  
20    cartel-street gang cocaine networks.

21    (b) The department shall coordinate all investigations undertaken  
22    by task forces operating under the Crack Down Task Force  
23    Program with all local agencies having law enforcement  
24    responsibilities within the jurisdictions involved. The department  
25    shall also solicit participation by appropriate federal agencies with  
26    task force investigations whenever possible.

27    ~~The department's Bureau of Narcotic Enforcement, Bureau of~~  
28    ~~Forensic Services, and Bureau of Investigations~~ *department* shall  
29    provide staffing and logistical support for the crackdown task  
30    forces, supplying special agents, criminal intelligence analysts,  
31    forensic experts, financial auditors, equipment, and funding to the  
32    task forces as needed.

33    (c) Local law enforcement agencies participating in the Crack  
34    Down Task Force Program shall be reimbursed by the department

1 for personnel overtime costs and equipment or supplies required  
2 for task force activities.

3 *SEC. 3. Section 11100 of the Health and Safety Code is*  
4 *amended to read:*

5 11100. (a) Any manufacturer, wholesaler, retailer, or other  
6 person or entity in this state that sells, transfers, or otherwise  
7 furnishes any of the following substances to any person or entity  
8 in this state or any other state shall submit a report to the  
9 Department of Justice of all of those transactions:

- 10 (1) Phenyl-2-propanone.
- 11 (2) Methylamine.
- 12 (3) Ethylamine.
- 13 (4) D-lysergic acid.
- 14 (5) Ergotamine tartrate.
- 15 (6) Diethyl malonate.
- 16 (7) Malonic acid.
- 17 (8) Ethyl malonate.
- 18 (9) Barbituric acid.
- 19 (10) Piperidine.
- 20 (11) N-acetylanthranilic acid.
- 21 (12) Pyrrolidine.
- 22 (13) Phenylacetic acid.
- 23 (14) Anthranilic acid.
- 24 (15) Morpholine.
- 25 (16) Ephedrine.
- 26 (17) Pseudoephedrine.
- 27 (18) Norpseudoephedrine.
- 28 (19) Phenylpropanolamine.
- 29 (20) Propionic anhydride.
- 30 (21) Isosafrole.
- 31 (22) Safrole.
- 32 (23) Piperonal.
- 33 (24) Thionylchloride.
- 34 (25) Benzyl cyanide.
- 35 (26) Ergonovine maleate.
- 36 (27) N-methylephedrine.
- 37 (28) N-ethylephedrine.
- 38 (29) N-methylpseudoephedrine.
- 39 (30) N-ethylpseudoephedrine.
- 40 (31) Chloroephedrine.

1 (32) Chloropseudoephedrine.

2 (33) Hydriodic acid.

3 (34) Gamma-butyrolactone, including butyrolactone;  
4 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;  
5 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;  
6 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;  
7 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone  
8 with Chemical Abstract Service number (96-48-0).

9 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;  
10 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;  
11 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene  
12 1,4-diol with Chemical Abstract Service number (110-63-4).

13 (36) Red phosphorus, including white phosphorus,  
14 hypophosphorous acid and its salts, ammonium hypophosphite,  
15 calcium hypophosphite, iron hypophosphite, potassium  
16 hypophosphite, manganese hypophosphite, magnesium  
17 hypophosphite, sodium hypophosphite, and phosphorous acid and  
18 its salts.

19 (37) Iodine or tincture of iodine.

20 (38) Any of the substances listed by the Department of Justice  
21 in regulations promulgated pursuant to subdivision (b).

22 (b) The Department of Justice may adopt rules and regulations  
23 in accordance with Chapter 3.5 (commencing with Section 11340)  
24 of Part 1 of Division 3 of Title 2 of the Government Code that add  
25 substances to subdivision (a) if the substance is a precursor to a  
26 controlled substance and delete substances from subdivision (a).  
27 However, no regulation adding or deleting a substance shall have  
28 any effect beyond March 1 of the year following the calendar year  
29 during which the regulation was adopted.

30 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other  
31 person or entity in this state, prior to selling, transferring, or  
32 otherwise furnishing any substance specified in subdivision (a) to  
33 any person or business entity in this state or any other state, shall  
34 require (A) a letter of authorization from that person or business  
35 entity that includes the currently valid business license number or  
36 federal Drug Enforcement Administration (DEA) registration  
37 number, the address of the business, and a full description of how  
38 the substance is to be used, and (B) proper identification from the  
39 purchaser. The manufacturer, wholesaler, retailer, or other person  
40 or entity in this state shall retain this information in a readily

1 available manner for three years. The requirement for a full  
2 description of how the substance is to be used does not require the  
3 person or business entity to reveal their chemical processes that  
4 are typically considered trade secrets and proprietary information.

5 (B) For the purposes of this paragraph, “proper identification”  
6 for in-state or out-of-state purchasers includes two or more of the  
7 following: federal tax identification number; seller’s permit  
8 identification number; city or county business license number;  
9 license issued by the California Department of Health Services;  
10 registration number issued by the Federal Drug Enforcement  
11 Administration; precursor business permit number issued by the  
12 ~~Bureau of Narcotic Enforcement of the California Department of~~  
13 Justice; driver’s license; or other identification issued by a state.

14 (2) (A) Any manufacturer, wholesaler, retailer, or other person  
15 or entity in this state that exports a substance specified in  
16 subdivision (a) to any person or business entity located in a foreign  
17 country shall, on or before the date of exportation, submit to the  
18 Department of Justice a notification of that transaction, which  
19 notification shall include the name and quantity of the substance  
20 to be exported and the name, address, and, if assigned by the  
21 foreign country or subdivision thereof, business identification  
22 number of the person or business entity located in a foreign country  
23 importing the substance.

24 (B) The department may authorize the submission of the  
25 notification on a monthly basis with respect to repeated, regular  
26 transactions between an exporter and an importer involving a  
27 substance specified in subdivision (a), if the department determines  
28 that a pattern of regular supply of the substance exists between the  
29 exporter and importer and that the importer has established a record  
30 of utilization of the substance for lawful purposes.

31 (d) (1) Any manufacturer, wholesaler, retailer, or other person  
32 or entity in this state that sells, transfers, or otherwise furnishes a  
33 substance specified in subdivision (a) to a person or business entity  
34 in this state or any other state shall, not less than 21 days prior to  
35 delivery of the substance, submit a report of the transaction, which  
36 includes the identification information specified in subdivision  
37 (c), to the Department of Justice. The Department of Justice may  
38 authorize the submission of the reports on a monthly basis with  
39 respect to repeated, regular transactions between the furnisher and  
40 the recipient involving the substance or substances if the

1 Department of Justice determines that a pattern of regular supply  
2 of the substance or substances exists between the manufacturer,  
3 wholesaler, retailer, or other person or entity that sells, transfers,  
4 or otherwise furnishes the substance or substances and the recipient  
5 of the substance or substances, and the recipient has established a  
6 record of utilization of the substance or substances for lawful  
7 purposes.

8 (2) The person selling, transferring, or otherwise furnishing any  
9 substance specified in subdivision (a) shall affix his or her signature  
10 or otherwise identify himself or herself as a witness to the  
11 identification of the purchaser or purchasing individual, and shall,  
12 if a common carrier is used, maintain a manifest of the delivery  
13 to the purchaser for three years.

14 (e) This section shall not apply to any of the following:

15 (1) Any pharmacist or other authorized person who sells or  
16 furnishes a substance upon the prescription of a physician, dentist,  
17 podiatrist, or veterinarian.

18 (2) Any physician, dentist, podiatrist, or veterinarian who  
19 administers or furnishes a substance to his or her patients.

20 (3) Any manufacturer or wholesaler licensed by the California  
21 State Board of Pharmacy that sells, transfers, or otherwise furnishes  
22 a substance to a licensed pharmacy, physician, dentist, podiatrist,  
23 or veterinarian, or a retail distributor as defined in subdivision (h),  
24 provided that the manufacturer or wholesaler submits records of  
25 any suspicious sales or transfers as determined by the Department  
26 of Justice.

27 (4) Any analytical research facility that is registered with the  
28 federal Drug Enforcement Administration of the United States  
29 Department of Justice.

30 (5) A state-licensed health care facility that administers or  
31 furnishes a substance to its patients.

32 (6) (A) Any sale, transfer, furnishing, or receipt of any product  
33 that contains ephedrine, pseudoephedrine, norpseudoephedrine,  
34 or phenylpropanolamine and which is lawfully sold, transferred,  
35 or furnished over the counter without a prescription pursuant to  
36 the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et  
37 seq.) or regulations adopted thereunder. However, this section  
38 shall apply to preparations in solid or liquid dosage form, except  
39 pediatric liquid forms, as defined, containing ephedrine,  
40 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine

1 where the individual transaction involves more than three packages  
2 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,  
3 or phenylpropanolamine.

4 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or  
5 phenylpropanolamine product subsequently removed from  
6 exemption pursuant to Section 814 of Title 21 of the United States  
7 Code shall similarly no longer be exempt from any state reporting  
8 or permitting requirement, unless otherwise reinstated pursuant to  
9 subdivision (d) or (e) of Section 814 of Title 21 of the United States  
10 Code as an exempt product.

11 (7) The sale, transfer, furnishing, or receipt of any betadine or  
12 povidone solution with an iodine content not exceeding 1 percent  
13 in containers of eight ounces or less, or any tincture of iodine not  
14 exceeding 2 percent in containers of one ounce or less, that is sold  
15 over the counter.

16 (8) Any transfer of a substance specified in subdivision (a) for  
17 purposes of lawful disposal as waste.

18 (f) (1) Any person specified in subdivision (a) or (d) who does  
19 not submit a report as required by that subdivision or who  
20 knowingly submits a report with false or fictitious information  
21 shall be punished by imprisonment in a county jail not exceeding  
22 six months, by a fine not exceeding five thousand dollars (\$5,000),  
23 or by both the fine and imprisonment.

24 (2) Any person specified in subdivision (a) or (d) who has  
25 previously been convicted of a violation of paragraph (1) shall,  
26 upon a subsequent conviction thereof, be punished by  
27 imprisonment pursuant to subdivision (h) of Section 1170 of the  
28 Penal Code, or by imprisonment in a county jail not exceeding one  
29 year, by a fine not exceeding one hundred thousand dollars  
30 (\$100,000), or by both the fine and imprisonment.

31 (g) (1) Except as otherwise provided in subparagraph (A) of  
32 paragraph (6) of subdivision (e), it is unlawful for any  
33 manufacturer, wholesaler, retailer, or other person to sell, transfer,  
34 or otherwise furnish a substance specified in subdivision (a) to a  
35 person under 18 years of age.

36 (2) Except as otherwise provided in subparagraph (A) of  
37 paragraph (6) of subdivision (e), it is unlawful for any person under  
38 18 years of age to possess a substance specified in subdivision (a).

39 (3) Notwithstanding any other law, it is unlawful for any retail  
40 distributor to (i) sell in a single transaction more than three



1 packages of a product that he or she knows to contain ephedrine,  
2 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,  
3 or (ii) knowingly sell more than nine grams of ephedrine,  
4 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,  
5 other than pediatric liquids as defined. Except as otherwise  
6 provided in this section, the three package per transaction limitation  
7 or nine gram per transaction limitation imposed by this paragraph  
8 shall apply to any product that is lawfully sold, transferred, or  
9 furnished over the counter without a prescription pursuant to the  
10 federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.),  
11 or regulations adopted thereunder, unless exempted from the  
12 requirements of the federal Controlled Substances Act by the  
13 federal Drug Enforcement Administration pursuant to Section 814  
14 of Title 21 of the United States Code.

15 (4) (A) A first violation of this subdivision is a misdemeanor.

16 (B) Any person who has previously been convicted of a violation  
17 of this subdivision shall, upon a subsequent conviction thereof, be  
18 punished by imprisonment in a county jail not exceeding one year,  
19 by a fine not exceeding ten thousand dollars (\$10,000), or by both  
20 the fine and imprisonment.

21 (h) For the purposes of this article, the following terms have  
22 the following meanings:

23 (1) “Drug store” is any entity described in Code 5912 of the  
24 Standard Industrial Classification (SIC) Manual published by the  
25 United States Office of Management and Budget, 1987 edition.

26 (2) “General merchandise store” is any entity described in Codes  
27 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial  
28 Classification (SIC) Manual published by the United States Office  
29 of Management and Budget, 1987 edition.

30 (3) “Grocery store” is any entity described in Code 5411 of the  
31 Standard Industrial Classification (SIC) Manual published by the  
32 United States Office of Management and Budget, 1987 edition.

33 (4) “Pediatric liquid” means a nonencapsulated liquid whose  
34 unit measure according to product labeling is stated in milligrams,  
35 ounces, or other similar measure. In no instance shall the dosage  
36 units exceed 15 milligrams of phenylpropanolamine or  
37 pseudoephedrine per five milliliters of liquid product, except for  
38 liquid products primarily intended for administration to children  
39 under two years of age for which the recommended dosage unit

1 does not exceed two milliliters and the total package content does  
2 not exceed one fluid ounce.

3 (5) “Retail distributor” means a grocery store, general  
4 merchandise store, drugstore, or other related entity, the activities  
5 of which, as a distributor of ephedrine, pseudoephedrine,  
6 norpseudoephedrine, or phenylpropanolamine products, are limited  
7 exclusively to the sale of ephedrine, pseudoephedrine,  
8 norpseudoephedrine, or phenylpropanolamine products for personal  
9 use both in number of sales and volume of sales, either directly to  
10 walk-in customers or in face-to-face transactions by direct sales.  
11 “Retail distributor” includes an entity that makes a direct sale, but  
12 does not include the parent company of that entity if the company  
13 is not involved in direct sales regulated by this article.

14 (6) “Sale for personal use” means the sale in a single transaction  
15 to an individual customer for a legitimate medical use of a product  
16 containing ephedrine, pseudoephedrine, norpseudoephedrine, or  
17 phenylpropanolamine in dosages at or below that specified in  
18 paragraph (3) of subdivision (g). “Sale for personal use” also  
19 includes the sale of those products to employers to be dispensed  
20 to employees from first-aid kits or medicine chests.

21 (i) It is the intent of the Legislature that this section shall  
22 preempt all local ordinances or regulations governing the sale by  
23 a retail distributor of over-the-counter products containing  
24 ephedrine, pseudoephedrine, norpseudoephedrine, or  
25 phenylpropanolamine.

26 *SEC. 4. Section 11106.5 of the Health and Safety Code is*  
27 *amended to read:*

28 11106.5. (a) The ~~Bureau of Narcotic Enforcement~~ *Department*  
29 *of Justice*, or an administrative law judge sitting alone as provided  
30 in subdivision (h), may upon petition issue an interim order  
31 suspending any permittee or imposing permit restrictions. The  
32 petition shall include affidavits that demonstrate, to the satisfaction  
33 of the ~~bureau~~ *department*, both of the following:

34 (1) The permittee has engaged in acts or omissions constituting  
35 a violation of this code or has been convicted of a crime  
36 substantially related to the permitted activity.

37 (2) Permitting the permittee to operate, or to continue to operate  
38 without restrictions, would endanger the public health, safety, or  
39 welfare.

1 (b) No interim order provided for in this section shall be issued  
2 without notice to the permittee, unless it appears from the petition  
3 and supporting documents that serious injury would result to the  
4 public before the matter could be heard on notice.

5 (c) Except as provided in subdivision (b), the permittee shall  
6 be given at least 15 days' notice of the hearing on the petition for  
7 an interim order. The notice shall include documents submitted to  
8 the ~~bureau~~ department in support of the petition. If the order was  
9 initially issued without notice as provided in subdivision (b), the  
10 permittee shall be entitled to a hearing on the petition within 20  
11 days of the issuance of the interim order without notice. The  
12 permittee shall be given notice of the hearing within two days after  
13 issuance of the initial interim order, and shall receive all documents  
14 in support of the petition. The failure of the ~~bureau~~ department to  
15 provide a hearing within 20 days following issuance of the interim  
16 order without notice, unless the permittee waives his or her right  
17 to the hearing, shall result in the dissolution of the interim order  
18 by operation of law.

19 (d) At the hearing on the petition for an interim order, the  
20 permittee may do the following:

- 21 (1) Be represented by counsel.
- 22 (2) Have a record made of the proceedings, copies of which  
23 shall be available to the permittee upon payment of costs computed  
24 in accordance with the provisions for transcript costs for judicial  
25 review contained in Section 11523 of the Government Code.
- 26 (3) Present affidavits and other documentary evidence.
- 27 (4) Present oral argument.

28 (e) The ~~bureau~~ department, or an administrative law judge sitting  
29 alone as provided in subdivision (h), shall issue a decision on the  
30 petition for interim order within five business days following  
31 submission of the matter. The standard of proof required to obtain  
32 an interim order pursuant to this section shall be a preponderance  
33 of the evidence standard. If the interim order was previously issued  
34 without notice, the ~~bureau~~ department shall determine whether the  
35 order shall remain in effect, be dissolved, or be modified.

36 (f) The ~~bureau~~ department shall file an accusation within 15  
37 days of the issuance of an interim order. In the case of an interim  
38 order issued without notice, the time shall run from the date of the  
39 order issued after the noticed hearing. If the permittee files a notice  
40 of defense, the hearing shall be held within 30 days of the agency's

1 receipt of the notice of defense. A decision shall be rendered on  
2 the accusation no later than 30 days after submission of the matter.  
3 Failure to comply with any of the requirements in this subdivision  
4 shall dissolve the interim order by operation of law.

5 (g) Interim orders shall be subject to judicial review pursuant  
6 to Section 1094.5 of the Code of Civil Procedure and shall be heard  
7 only in the superior court in and for the County of Sacramento,  
8 San Francisco, Los Angeles, or San Diego. The review of an  
9 interim order shall be limited to a determination of whether the  
10 ~~bureau~~ *department* abused its discretion in the issuance of the  
11 interim order. Abuse of discretion is established if the respondent  
12 ~~bureau~~ *department* has not proceeded in the manner required by  
13 law, or if the court determines that the interim order is not  
14 supported by substantial evidence in light of the whole record.

15 (h) The ~~bureau~~ *department* may, in its sole discretion, delegate  
16 the hearing on any petition for an interim order to an administrative  
17 law judge in the Office of Administrative Hearings. If the ~~bureau~~  
18 *department* hears the noticed petition itself, an administrative law  
19 judge shall preside at the hearing, rule on the admission and  
20 exclusion of evidence, and advise the ~~bureau~~ *department* on matters  
21 of law. The ~~bureau~~ *department* shall exercise all other powers  
22 relating to the conduct of the hearing, but may delegate any or all  
23 of them to the administrative law judge. When the petition has  
24 been delegated to an administrative law judge, he or she shall sit  
25 alone and exercise all of the powers of the ~~bureau~~ *department*  
26 relating to the conduct of the hearing. A decision issued by an  
27 administrative law judge sitting alone shall be final when it is filed  
28 with the ~~bureau~~ *department*. If the administrative law judge issues  
29 an interim order without notice, he or she shall preside at the  
30 noticed hearing, unless unavailable, in which case another  
31 administrative law judge may hear the matter. The decision of the  
32 administrative law judge sitting alone on the petition for an interim  
33 order is final, subject only to judicial review in accordance with  
34 subdivision (g).

35 (i) (1) Failure to comply with an interim order issued pursuant  
36 to subdivision (a) or (b) shall constitute a separate cause for  
37 disciplinary action against any permittee, and may be heard at, and  
38 as a part of, the noticed hearing provided for in subdivision (f).  
39 Allegations of noncompliance with the interim order may be filed  
40 at any time prior to the rendering of a decision on the accusation.

1 Violation of the interim order is established upon proof that the  
2 permittee was on notice of the interim order and its terms, and that  
3 the order was in effect at the time of the violation. The finding of  
4 a violation of an interim order made at the hearing on the  
5 accusation shall be reviewed as a part of any review of a final  
6 decision of the ~~bureau~~ department.

7 If

8 (2) If the interim order issued by the ~~bureau~~ department provides  
9 for anything less than a complete suspension of the permittee and  
10 the permittee violates the interim order prior to the hearing on the  
11 accusation provided for in subdivision (f), the ~~bureau~~ department  
12 may, upon notice to the permittee and proof of violation, modify  
13 or expand the interim order.

14 (j) A plea or verdict of guilty or a conviction after a plea of nolo  
15 contendere is deemed to be a conviction within the meaning of  
16 this section. A certified record of the conviction shall be conclusive  
17 evidence of the fact that the conviction occurred. The ~~bureau~~  
18 department may take action under this section notwithstanding the  
19 fact that an appeal of the conviction may be taken.

20 (k) The interim orders provided for by this section shall be in  
21 addition to, and not a limitation on, the authority to seek injunctive  
22 relief provided in any other provision of law.

23 SEC. 5. Section 11107 of the Health and Safety Code is  
24 amended to read:

25 11107. (a) Any manufacturer, wholesaler, retailer, or other  
26 person or entity in this state that sells to any person or entity in  
27 this state or any other state, any laboratory glassware or apparatus,  
28 any chemical reagent or solvent, or any combination thereof, where  
29 the value of the goods sold in the transaction exceeds one hundred  
30 dollars (\$100) shall do the following:

31 (1) Notwithstanding any other law, in any face-to-face or  
32 will-call sale, the seller shall prepare a bill of sale which identifies  
33 the date of sale, cost of product, method of payment, specific items  
34 and quantities purchased, and the proper purchaser identification  
35 information, all of which shall be entered onto the bill of sale or  
36 a legible copy of the bill of sale, and shall also affix on the bill of  
37 sale his or her signature as witness to the purchase and  
38 identification of the purchaser.

39 (A) For the purposes of this section, “proper purchaser  
40 identification” includes a valid motor vehicle operator’s license

1 or other official and valid state-issued identification of the  
2 purchaser that contains a photograph of the purchaser, and includes  
3 the residential or mailing address of the purchaser, other than a  
4 post office box number, the motor vehicle license number of the  
5 motor vehicle used by the purchaser at the time of purchase, a  
6 description of how the substance is to be used, and the signature  
7 of the purchaser.

8 (B) The seller shall retain the original bill of sale containing the  
9 purchaser identification information for five years in a readily  
10 presentable manner, and present the bill of sale containing the  
11 purchaser identification information upon demand by any law  
12 enforcement officer or authorized representative of the Attorney  
13 General. Copies of these bills of sale obtained by representatives  
14 of the Attorney General shall be maintained by the Department of  
15 Justice for a period of not less than five years.

16 (2) (A) Notwithstanding any other law, in all sales other than  
17 face-to-face or will-call sales the seller shall maintain for a period  
18 of five years the following sales information: the name and address  
19 of the purchaser, date of sale, product description, cost of product,  
20 method of payment, method of delivery, delivery address, and  
21 valid identifying information.

22 (B) For the purposes of this paragraph, “valid identifying  
23 information” includes two or more of the following: federal tax  
24 identification number; resale tax identification number; city or  
25 county business license number; license issued by the State  
26 Department of Health Services; registration number issued by the  
27 federal Drug Enforcement Administration; precursor business  
28 permit number issued by the ~~Bureau of Narcotic Enforcement~~ of  
29 the Department of Justice; motor vehicle operator’s license; or  
30 other identification issued by a state.

31 (C) The seller shall, upon the request of any law enforcement  
32 officer or any authorized representative of the Attorney General,  
33 produce a report or record of sale containing the information in a  
34 readily presentable manner.

35 (D) If a common carrier is used, the seller shall maintain a  
36 manifest regarding the delivery in a readily presentable manner  
37 and for a period of five years.

38 (b) This section shall not apply to any wholesaler who is licensed  
39 by the California State Board of Pharmacy and registered with the  
40 federal Drug Enforcement Administration of the United States

Department of Justice and who sells laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(c) A violation of this section is a misdemeanor.

(d) For the purposes of this section, the following terms have the following meanings:

(1) “Laboratory glassware” includes, but is not limited to, condensers, flasks, separatory funnels, and beakers.

(2) “Apparatus” includes, but is not limited to, heating mantles, ring stands, and rheostats.

(3) “Chemical reagent” means a chemical that reacts chemically with one or more precursors, but does not become part of the finished product.

(4) “Chemical solvent” means a chemical that does not react chemically with a precursor or reagent and does not become part of the finished product. A “chemical solvent” helps other chemicals mix, cools chemical reactions, and cleans the finished product.

*SEC. 6. Section 11107.1 of the Health and Safety Code is amended to read:*

11107.1. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells to any person or entity in this state or any other state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric chloride, sodium metal, lead acetate, palladium black, hydrogen chloride gas, trichlorofluoromethane (fluorotrichloromethane), dichlorodifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane), sodium acetate, or acetic anhydride shall do the following:

(1) (A) Notwithstanding any other provision of law, in any face-to-face or will-call sale, the seller shall prepare a bill of sale which identifies the date of sale, cost of sale, method of payment, the specific items and quantities purchased and the proper purchaser identification information, all of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

(B) For the purposes of this paragraph, “proper purchaser identification” includes a valid driver’s license or other official and valid state-issued identification of the purchaser that contains

1 a photograph of the purchaser, and includes the residential or  
2 mailing address of the purchaser, other than a post office box  
3 number, the motor vehicle license number of the motor vehicle  
4 used by the purchaser at the time of purchase, a description of how  
5 the substance is to be used, the Environmental Protection Agency  
6 certification number or resale tax identification number assigned  
7 to the individual or business entity for which the individual is  
8 purchasing any chlorofluorocarbon product, and the signature of  
9 the purchaser.

10 (C) The seller shall retain the original bill of sale containing the  
11 purchaser identification information for five years in a readily  
12 presentable manner, and present the bill of sale containing the  
13 purchaser identification information upon demand by any law  
14 enforcement officer or authorized representative of the Attorney  
15 General. Copies of these bills of sale obtained by representatives  
16 of the Attorney General shall be maintained by the Department of  
17 Justice for a period of not less than five years.

18 (2) (A) Notwithstanding any other law, in all sales other than  
19 face-to-face or will-call sales the seller shall maintain for a period  
20 of five years the following sales information: the name and address  
21 of the purchaser, date of sale, product description, cost of product,  
22 method of payment, method of delivery, delivery address, and  
23 valid identifying information.

24 (B) For the purposes of this paragraph, “valid identifying  
25 information” includes two or more of the following: federal tax  
26 identification number; resale tax identification number; city or  
27 county business license number; license issued by the State  
28 Department of Health Services; registration number issued by the  
29 federal Drug Enforcement Administration; precursor business  
30 permit number issued by ~~the Bureau of Narcotic Enforcement of~~  
31 the Department of Justice; driver’s license; or other identification  
32 issued by a state.

33 (C) The seller shall, upon the request of any law enforcement  
34 officer or any authorized representative of the Attorney General,  
35 produce a report or record of sale containing the information in a  
36 readily presentable manner.

37 (D) If a common carrier is used, the seller shall maintain a  
38 manifest regarding the delivery in a readily presentable manner  
39 for a period of five years.



(b) Any manufacturer, wholesaler, retailer, or other person or entity in this state that purchases any item listed in subdivision (a) of Section 11107.1 shall do the following:

(1) Provide on the record of purchase information on the source of the items purchased, the date of purchase, a description of the specific items, the quantities of each item purchased, and the cost of the items purchased.

(2) Retain the record of purchase for three years in a readily presentable manner and present the record of purchase upon demand to any law enforcement officer or authorized representative of the Attorney General.

(c) (1) A first violation of this section is a misdemeanor.

(2) Any person who has previously been convicted of a violation of this section shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or both the fine and imprisonment.

*SEC. 7. Section 11165.3 of the Health and Safety Code is amended to read:*

11165.3. The theft or loss of prescription forms shall be reported immediately by the security printer or affected prescriber to the CURES Prescription Drug Monitoring Program, but no later than three days after the discovery of the theft or loss. This notification may be done in writing utilizing the ~~Bureau of Narcotic Enforcement 1175 Reporting Theft/Loss Form~~ *approved Department of Justice form* or may be reported by the authorized subscriber through the CURES Prescription Drug Monitoring Program.

*SEC. 8. Section 11167 of the Health and Safety Code is amended to read:*

11167. Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a controlled substance may be dispensed on an oral order, an electronic data transmission order, or a written order not made on a controlled substance form as specified in Section 11162.1, subject to all of the following requirements:

(a) The order contains all information required by subdivision (a) of Section 11164.

1 (b) Any written order is signed and dated by the prescriber in  
2 ink, and the pharmacy reduces any oral or electronic data  
3 transmission order to hard copy form prior to dispensing the  
4 controlled substance.

5 (c) The prescriber provides a written prescription on a controlled  
6 substance prescription form that meets the requirements of Section  
7 11162.1, by the seventh day following the transmission of the  
8 initial order; a postmark by the seventh day following transmission  
9 of the initial order shall constitute compliance.

10 (d) If the prescriber fails to comply with subdivision (c), the  
11 pharmacy shall so notify the ~~Bureau of Narcotic Enforcement~~  
12 *Department of Justice* in writing within 144 hours of the  
13 prescriber's failure to do so and shall make and retain a hard copy,  
14 readily retrievable record of the prescription, including the date  
15 and method of notification of the ~~Bureau of Narcotic Enforcement~~  
16 *Department of Justice*.

17 (e) This section shall become operative on January 1, 2005.

18 *SEC. 9. Section 11367.5 of the Health and Safety Code is*  
19 *amended to read:*

20 11367.5. (a) Any sheriff, chief of police, the Chief of the  
21 ~~Bureau of Narcotic Enforcement~~ *Division of Law Enforcement*, or  
22 the Commissioner of the California Highway Patrol, or a designee  
23 thereof, may, in his or her discretion, provide controlled substances  
24 in his or her possession and control to any duly authorized peace  
25 officer or civilian drug detection canine trainer working under the  
26 direction of a law enforcement agency, provided the controlled  
27 substances are no longer needed as criminal evidence and provided  
28 the person receiving the controlled substances, if required by the  
29 Drug Enforcement Administration, possesses a current and valid  
30 Drug Enforcement Administration registration which specifically  
31 authorizes the recipient to possess controlled substances while  
32 providing substance abuse training to law enforcement or the  
33 community or while providing canine drug detection training.

34 (b) All duly authorized peace officers, while providing substance  
35 abuse training to law enforcement or the community or while  
36 providing canine drug detection training, in performance of their  
37 official duties, and any person working under their immediate  
38 direction, supervision, or instruction, are immune from prosecution  
39 under this division.

(c) (1) Any person receiving controlled substances pursuant to subdivision (a) shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(2) All controlled substances shall be maintained in a secure location approved by the dispensing agency.

(3) Any loss shall be reported immediately to the dispensing agency.

(4) All controlled substances shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

*SEC. 10. The heading of Chapter 7 (commencing with Section 11450) of Division 10 of the Health and Safety Code is amended to read:*

~~CHAPTER 7. BUREAU OF NARCOTIC ENFORCEMENT~~  
*DEPARTMENT OF JUSTICE*

*SEC. 11. Section 11643 of the Health and Safety Code is amended to read:*

11643. To the extent moneys are available therefor, ~~the Bureau of Narcotic Enforcement~~ in the Department of Justice shall do the following:

(a) In cooperation with the Commission on Peace Officer Standards and Training provide advanced training to state and local law enforcement personnel on the unique skills, such as detection and identification of chemical substances, and safety precautions, such as safe handling, storage, and disposal of toxic substances, necessary to investigate clandestine laboratories illegally manufacturing controlled substances.

(b) Make safety equipment, such as protective clothing and breathing apparatus, available to local law enforcement officials, as needed, on a case-by-case basis in connection with investigation and abatement of laboratories illegally manufacturing controlled substances.

(c) Establish enhanced enforcement teams assigned to the investigation of clandestine laboratories illegally manufacturing controlled substances, particularly targeting cabals operating in multiple local jurisdictions. These teams shall include special agents trained in investigating clandestine laboratories, criminalists

1 to analyze the chemicals involved, auditors to conduct financial  
2 investigations and initiate forfeiture proceedings pursuant to  
3 Chapter 8 (commencing with Section 11470) where warranted,  
4 and analysts to monitor the overall pattern and network of these  
5 clandestine laboratories across the state, to develop further cases,  
6 and to target law enforcement efforts where needed.

7 *SEC. 12. Section 11647 of the Health and Safety Code is*  
8 *amended to read:*

9 11647. (a) The Crank-Up Task Force Program is hereby  
10 created within the Department of Justice as part of the Clandestine  
11 Laboratory Enforcement Program with responsibility for  
12 establishing, conducting, supporting, and coordinating crank-up  
13 task forces composed of state and local law enforcement agencies  
14 targeting the investigation, seizure, and cleanup of clandestine  
15 laboratories used to manufacture methamphetamine.

16 (b) The department shall coordinate all investigations undertaken  
17 by task forces operating under the Crank-Up Task Force Program  
18 with all local agencies having law enforcement responsibilities  
19 within the jurisdictions involved. The department also shall solicit  
20 participation by appropriate federal agencies with task force  
21 investigations whenever possible.

22 ~~The department's Bureau of Narcotic Enforcement, Bureau of~~  
23 ~~Forensic Services, and Bureau of Investigations~~ *department* shall  
24 provide staffing and logistical support for the crank-up task forces,  
25 supplying special agents, criminal intelligence analysts, forensic  
26 experts, financial auditors, equipment, and funding to the task  
27 forces as needed.

28 (c) Local law enforcement agencies participating in the  
29 Crank-Up Task Force Program shall be reimbursed by the  
30 department for personnel overtime costs and equipment or supplies  
31 required for task force activities.

32 **SECTION 1.**

33 *SEC. 13. Section 1197.2 of the Labor Code is amended to read:*

34 1197.2. (a) In addition to any other penalty imposed by law,  
35 an employer who willfully fails to pay and has the ability to pay  
36 a final court judgment or final order issued by the Labor  
37 Commissioner for all wages due to an employee who has been  
38 discharged or who has quit within 90 days of the date that the  
39 judgment was entered or the order became final is guilty of a  
40 misdemeanor. For purposes of this section, "final court judgment

or final order” means a court judgment or order as to which the time to appeal has expired and there is no appeal pending. If the total amount of wages due is one thousand dollars (\$1,000) or less, upon conviction therefor, the employer shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) or imprisoned in a county jail for not more than six months, for each offense. If the total amount of wages due is more than one thousand dollars (\$1,000) upon conviction therefor, the employer shall be fined not less than ten thousand dollars (\$10,000) nor more than twenty thousand dollars (\$20,000), or imprisoned in a county jail for not less than six months, nor more than one year, or both the fine and imprisonment, for each offense. If there are multiple failures to pay wages involving more than one employee, the total amount of wages due to all employees shall be aggregated together for purposes of determining the level of fine and the term of imprisonment.

(b) As used in this section, “willfully” has the same meaning as provided in Section 7 of the Penal Code.

(c) Nothing in this section precludes prosecution under any other provision of law.

~~SEC. 2.~~

*SEC. 14.* Section 19.8 of the Penal Code is amended to read:

19.8. The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13, and 853.7 of this code; subdivision (c) of Section 532b, and subdivision (o) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense which the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a violation of any of those sections, any violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 is not

1 grounds for the suspension, revocation, or denial of any license,  
2 or for the revocation of probation or parole of the person convicted.

3 *SEC. 15. Section 243 of the Penal Code is amended to read:*

4 243. (a) A battery is punishable by a fine not exceeding two  
5 thousand dollars (\$2,000), or by imprisonment in a county jail not  
6 exceeding six months, or by both that fine and imprisonment.

7 (b) When a battery is committed against the person of a peace  
8 officer, custodial officer, firefighter, emergency medical technician,  
9 lifeguard, security officer, custody assistant, process server, traffic  
10 officer, code enforcement officer, animal control officer, or search  
11 and rescue member engaged in the performance of his or her duties,  
12 whether on or off duty, including when the peace officer is in a  
13 police uniform and is concurrently performing the duties required  
14 of him or her as a peace officer while also employed in a private  
15 capacity as a part-time or casual private security guard or  
16 patrolman, or a nonsworn employee of a probation department  
17 engaged in the performance of his or her duties, whether on or off  
18 duty, or a physician or nurse engaged in rendering emergency  
19 medical care outside a hospital, clinic, or other health care facility,  
20 and the person committing the offense knows or reasonably should  
21 know that the victim is a peace officer, custodial officer, firefighter,  
22 emergency medical technician, lifeguard, security officer, custody  
23 assistant, process server, traffic officer, code enforcement officer,  
24 animal control officer, or search and rescue member engaged in  
25 the performance of his or her duties, nonsworn employee of a  
26 probation department, or a physician or nurse engaged in rendering  
27 emergency medical care, the battery is punishable by a fine not  
28 exceeding two thousand dollars (\$2,000), or by imprisonment in  
29 a county jail not exceeding one year, or by both that fine and  
30 imprisonment.

31 (c) (1) When a battery is committed against a custodial officer,  
32 firefighter, emergency medical technician, lifeguard, process server,  
33 traffic officer, or animal control officer engaged in the performance  
34 of his or her duties, whether on or off duty, or a nonsworn  
35 employee of a probation department engaged in the performance  
36 of his or her duties, whether on or off duty, or a physician or nurse  
37 engaged in rendering emergency medical care outside a hospital,  
38 clinic, or other health care facility, and the person committing the  
39 offense knows or reasonably should know that the victim is a  
40 nonsworn employee of a probation department, custodial officer,

1 firefighter, emergency medical technician, lifeguard, process server,  
2 traffic officer, or animal control officer engaged in the performance  
3 of his or her duties, or a physician or nurse engaged in rendering  
4 emergency medical care, and an injury is inflicted on that victim,  
5 the battery is punishable by a fine of not more than two thousand  
6 dollars (\$2,000), by imprisonment in a county jail not exceeding  
7 one year, or by both that fine and imprisonment, or by  
8 imprisonment pursuant to subdivision (h) of Section 1170 for 16  
9 months, or two or three years.

10 (2) When the battery specified in paragraph (1) is committed  
11 against a peace officer engaged in the performance of his or her  
12 duties, whether on or off duty, including when the peace officer  
13 is in a police uniform and is concurrently performing the duties  
14 required of him or her as a peace officer while also employed in  
15 a private capacity as a part-time or casual private security guard  
16 or patrolman and the person committing the offense knows or  
17 reasonably should know that the victim is a peace officer engaged  
18 in the performance of his or her duties, the battery is punishable  
19 by a fine of not more than ten thousand dollars (\$10,000), or by  
20 imprisonment in a county jail not exceeding one year or pursuant  
21 to subdivision (h) of Section 1170 for 16 months, or two or three  
22 years, or by both that fine and imprisonment.

23 (d) When a battery is committed against any person and serious  
24 bodily injury is inflicted on the person, the battery is punishable  
25 by imprisonment in a county jail not exceeding one year or  
26 imprisonment pursuant to subdivision (h) of Section 1170 for two,  
27 three, or four years.

28 (e) (1) When a battery is committed against a spouse, a person  
29 with whom the defendant is cohabiting, a person who is the parent  
30 of the defendant's child, former spouse, fiancé, or fiancée, or a  
31 person with whom the defendant currently has, or has previously  
32 had, a dating or engagement relationship, the battery is punishable  
33 by a fine not exceeding two thousand dollars (\$2,000), or by  
34 imprisonment in a county jail for a period of not more than one  
35 year, or by both that fine and imprisonment. If probation is granted,  
36 or the execution or imposition of the sentence is suspended, it shall  
37 be a condition thereof that the defendant participate in, for no less  
38 than one year, and successfully complete, a batterer's treatment  
39 program, as described in Section 1203.097, or if none is available,  
40 another appropriate counseling program designated by the court.

1 However, this provision shall not be construed as requiring a city,  
2 a county, or a city and county to provide a new program or higher  
3 level of service as contemplated by Section 6 of Article XIII B of  
4 the California Constitution.

5 (2) Upon conviction of a violation of this subdivision, if  
6 probation is granted, the conditions of probation may include, in  
7 lieu of a fine, one or both of the following requirements:

8 (A) That the defendant make payments to a battered women's  
9 shelter, up to a maximum of five thousand dollars (\$5,000).

10 (B) That the defendant reimburse the victim for reasonable costs  
11 of counseling and other reasonable expenses that the court finds  
12 are the direct result of the defendant's offense.

13 For any order to pay a fine, make payments to a battered  
14 women's shelter, or pay restitution as a condition of probation  
15 under this subdivision, the court shall make a determination of the  
16 defendant's ability to pay. In no event shall any order to make  
17 payments to a battered women's shelter be made if it would impair  
18 the ability of the defendant to pay direct restitution to the victim  
19 or court-ordered child support. If the injury to a married person is  
20 caused in whole or in part by the criminal acts of his or her spouse  
21 in violation of this section, the community property shall not be  
22 used to discharge the liability of the offending spouse for restitution  
23 to the injured spouse, required by Section 1203.04, as operative  
24 on or before August 2, 1995, or Section 1202.4, or to a shelter for  
25 costs with regard to the injured spouse and dependents, required  
26 by this section, until all separate property of the offending spouse  
27 is exhausted.

28 (3) Upon conviction of a violation of this subdivision, if  
29 probation is granted or the execution or imposition of the sentence  
30 is suspended and the person has been previously convicted of a  
31 violation of this subdivision and sentenced under paragraph (1),  
32 the person shall be imprisoned for not less than 48 hours in addition  
33 to the conditions in paragraph (1). However, the court, upon a  
34 showing of good cause, may elect not to impose the mandatory  
35 minimum imprisonment as required by this subdivision and may,  
36 under these circumstances, grant probation or order the suspension  
37 of the execution or imposition of the sentence.

38 (4) The Legislature finds and declares that these specified crimes  
39 merit special consideration when imposing a sentence so as to



1 display society's condemnation for these crimes of violence upon  
2 victims with whom a close relationship has been formed.

3 *(5) If a peace officer makes an arrest for a violation of*  
4 *paragraph (1) of subdivision (e) of this section, the peace officer*  
5 *is not required to inform the victim of his or her right to make a*  
6 *citizen's arrest pursuant to subdivision (b) of Section 836.*

7 (f) As used in this section:

8 (1) "Peace officer" means any person defined in Chapter 4.5  
9 (commencing with Section 830) of Title 3 of Part 2.

10 (2) "Emergency medical technician" means a person who is  
11 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses  
12 a valid certificate or license in accordance with the standards of  
13 Division 2.5 (commencing with Section 1797) of the Health and  
14 Safety Code.

15 (3) "Nurse" means a person who meets the standards of Division  
16 2.5 (commencing with Section 1797) of the Health and Safety  
17 Code.

18 (4) "Serious bodily injury" means a serious impairment of  
19 physical condition, including, but not limited to, the following:  
20 loss of consciousness; concussion; bone fracture; protracted loss  
21 or impairment of function of any bodily member or organ; a wound  
22 requiring extensive suturing; and serious disfigurement.

23 (5) "Injury" means any physical injury which requires  
24 professional medical treatment.

25 (6) "Custodial officer" means any person who has the  
26 responsibilities and duties described in Section 831 and who is  
27 employed by a law enforcement agency of any city or county or  
28 who performs those duties as a volunteer.

29 (7) "Lifeguard" means a person defined in paragraph (5) of  
30 subdivision (d) of Section 241.

31 (8) "Traffic officer" means any person employed by a city,  
32 county, or city and county to monitor and enforce state laws and  
33 local ordinances relating to parking and the operation of vehicles.

34 (9) "Animal control officer" means any person employed by a  
35 city, county, or city and county for purposes of enforcing animal  
36 control laws or regulations.

37 (10) "Dating relationship" means frequent, intimate associations  
38 primarily characterized by the expectation of affectional or sexual  
39 involvement independent of financial considerations.

(11) (A) “Code enforcement officer” means any person who is not described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, who has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints.

(B) “Code enforcement officer” also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act (Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code); the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code); the Manufactured Housing Act of 1980 (Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code); the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code); and the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(12) “Custody assistant” means any person who has the responsibilities and duties described in Section 831.7 and who is employed by a law enforcement agency of any city, county, or city and county.

(13) “Search and rescue member” means any person who is part of an organized search and rescue team managed by a government agency.

(14) “Security officer” means any person who has the responsibilities and duties described in Section 831.4 and who is employed by a law enforcement agency of any city, county, or city and county.

(g) It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal

1 sanctions for battery on peace officers who are employed, on a  
2 part-time or casual basis, while wearing a police uniform as private  
3 security guards or patrolmen and to allow the exercise of peace  
4 officer powers concurrently with that employment.

5 *SEC. 16. Section 273.5 of the Penal Code is amended to read:*

6 273.5. (a) Any person who willfully inflicts upon a person  
7 who is his or her spouse, former spouse, cohabitant, former  
8 cohabitant, or the mother or father of his or her child, corporal  
9 injury resulting in a traumatic condition is guilty of a felony, and  
10 upon conviction thereof shall be punished by imprisonment in the  
11 state prison for two, three, or four years, or in a county jail for not  
12 more than one year, or by a fine of up to six thousand dollars  
13 (\$6,000) or by both that fine and imprisonment.

14 (b) Holding oneself out to be the husband or wife of the person  
15 with whom one is cohabiting is not necessary to constitute  
16 cohabitation as the term is used in this section.

17 (c) As used in this section, “traumatic condition” means a  
18 condition of the body, such as a wound, or external or internal  
19 injury, including, but not limited to, injury as a result of  
20 strangulation or suffocation, whether of a minor or serious nature,  
21 caused by a physical force. For purposes of this section,  
22 “strangulation” and “suffocation” include impeding the normal  
23 breathing or circulation of the blood of a person by applying  
24 pressure on the throat or neck.

25 (d) For the purpose of this section, a person shall be considered  
26 the father or mother of another person’s child if the alleged male  
27 parent is presumed the natural father under Sections 7611 and 7612  
28 of the Family Code.

29 (e) (1) Any person convicted of violating this section for acts  
30 occurring within seven years of a previous conviction under  
31 subdivision (a), or subdivision (d) of Section 243, or Section 243.4,  
32 244, 244.5, or 245, shall be punished by imprisonment in a county  
33 jail for not more than one year, or by imprisonment in the state  
34 prison for two, four, or five years, or by both imprisonment and a  
35 fine of up to ten thousand dollars (\$10,000).

36 (2) Any person convicted of a violation of this section for acts  
37 occurring within seven years of a previous conviction under  
38 subdivision (e) of Section 243 shall be punished by imprisonment  
39 in the state prison for two, three, or four years, or in a county jail

1 for not more than one year, or by a fine of up to ten thousand  
2 dollars (\$10,000), or by both that imprisonment and fine.

3 (f) If probation is granted to any person convicted under  
4 subdivision (a), the court shall impose probation consistent with  
5 the provisions of Section 1203.097.

6 (g) If probation is granted, or the execution or imposition of a  
7 sentence is suspended, for any defendant convicted under  
8 subdivision (a) who has been convicted of any prior offense  
9 specified in subdivision (e), the court shall impose one of the  
10 following conditions of probation:

11 (1) If the defendant has suffered one prior conviction within the  
12 previous seven years for a violation of any offense specified in  
13 subdivision (e), it shall be a condition thereof, in addition to the  
14 provisions contained in Section 1203.097, that he or she be  
15 imprisoned in a county jail for not less than 15 days.

16 (2) If the defendant has suffered two or more prior convictions  
17 within the previous seven years for a violation of any offense  
18 specified in subdivision (e), it shall be a condition of probation,  
19 in addition to the provisions contained in Section 1203.097, that  
20 he or she be imprisoned in a county jail for not less than 60 days.

21 (3) The court, upon a showing of good cause, may find that the  
22 mandatory imprisonment required by this subdivision shall not be  
23 imposed and shall state on the record its reasons for finding good  
24 cause.

25 (h) If probation is granted upon conviction of a violation of  
26 subdivision (a), the conditions of probation may include, consistent  
27 with the terms of probation imposed pursuant to Section 1203.097,  
28 in lieu of a fine, one or both of the following requirements:

29 (1) That the defendant make payments to a battered women's  
30 shelter, up to a maximum of five thousand dollars (\$5,000),  
31 pursuant to Section 1203.097.

32 (2) That the defendant reimburse the victim for reasonable costs  
33 of counseling and other reasonable expenses that the court finds  
34 are the direct result of the defendant's offense.

35 For any order to pay a fine, make payments to a battered  
36 women's shelter, or pay restitution as a condition of probation  
37 under this subdivision, the court shall make a determination of the  
38 defendant's ability to pay. In no event shall any order to make  
39 payments to a battered women's shelter be made if it would impair  
40 the ability of the defendant to pay direct restitution to the victim

1 or court-ordered child support. Where the injury to a married person  
2 is caused in whole or in part by the criminal acts of his or her  
3 spouse in violation of this section, the community property may  
4 not be used to discharge the liability of the offending spouse for  
5 restitution to the injured spouse, required by Section 1203.04, as  
6 operative on or before August 2, 1995, or Section 1202.4, or to a  
7 shelter for costs with regard to the injured spouse and dependents,  
8 required by this section, until all separate property of the offending  
9 spouse is exhausted.

10 (i) Upon conviction under subdivision (a), the sentencing court  
11 shall also consider issuing an order restraining the defendant from  
12 any contact with the victim, which may be valid for up to 10 years,  
13 as determined by the court. It is the intent of the Legislature that  
14 the length of any restraining order be based upon the seriousness  
15 of the facts before the court, the probability of future violations,  
16 and the safety of the victim and his or her immediate family. This  
17 protective order may be issued by the court whether the defendant  
18 is sentenced to state prison, county jail, or if imposition of sentence  
19 is suspended and the defendant is placed on probation.

20 (j) *If a peace officer makes an arrest for a violation of this*  
21 *section, the peace officer is not required to inform the victim of*  
22 *his or her right to make a citizen's arrest pursuant to subdivision*  
23 *(b) of Section 836.*

24 SEC. 17. *Section 290.015 of the Penal Code is amended to*  
25 *read:*

26 290.015. (a) A person who is subject to the Act shall register,  
27 or reregister if he or she has previously registered, upon release  
28 from incarceration, placement, commitment, or release on probation  
29 pursuant to subdivision (b) of Section 290. This section shall not  
30 apply to a person who is incarcerated for less than 30 days if he  
31 or she has registered as required by the Act, he or she returns after  
32 incarceration to the last registered address, and the annual update  
33 of registration that is required to occur within five working days  
34 of his or her birthday, pursuant to subdivision (a) of Section  
35 290.012, did not fall within that incarceration period. The  
36 registration shall consist of all of the following:

37 (1) A statement in writing signed by the person, giving  
38 information as shall be required by the Department of Justice and  
39 giving the name and address of the person's employer, and the

1 address of the person's place of employment if that is different  
2 from the employer's main address.

3 (2) The fingerprints and a current photograph of the person  
4 taken by the registering official.

5 (3) The license plate number of any vehicle owned by, regularly  
6 driven by, or registered in the name of the person.

7 (4) Notice to the person that, in addition to the requirements of  
8 the Act, he or she may have a duty to register in any other state  
9 where he or she may relocate.

10 (5) Copies of adequate proof of residence, which shall be limited  
11 to a California driver's license, California identification card, recent  
12 rent or utility receipt, printed personalized checks or other recent  
13 banking documents showing that person's name and address, or  
14 any other information that the registering official believes is  
15 reliable. If the person has no residence and no reasonable  
16 expectation of obtaining a residence in the foreseeable future, the  
17 person shall so advise the registering official and shall sign a  
18 statement provided by the registering official stating that fact.  
19 Upon presentation of proof of residence to the registering official  
20 or a signed statement that the person has no residence, the person  
21 shall be allowed to register. If the person claims that he or she has  
22 a residence but does not have any proof of residence, he or she  
23 shall be allowed to register but shall furnish proof of residence  
24 within 30 days of the date he or she is allowed to register.

25 (b) Within three days thereafter, the registering law enforcement  
26 agency or agencies shall forward the statement, fingerprints,  
27 photograph, and vehicle license plate number, if any, to the  
28 Department of Justice.

29 (c) (1) If a person fails to register in accordance with  
30 subdivision (a) after release, the district attorney in the jurisdiction  
31 where the person was to be paroled or to be on probation may  
32 request that a warrant be issued for the person's arrest and shall  
33 have the authority to prosecute that person pursuant to Section  
34 290.018.

35 (2) If the person was not on parole or probation *or on postrelease*  
36 *community supervision or mandatory supervision* at the time of  
37 release, the district attorney in the following applicable jurisdiction  
38 shall have the authority to prosecute that person pursuant to Section  
39 290.018:

1 (A) If the person was previously registered, in the jurisdiction  
2 in which the person last registered.

3 (B) If there is no prior registration, but the person indicated on  
4 the Department of Justice notice of sex offender registration  
5 requirement form where he or she expected to reside, in the  
6 jurisdiction where he or she expected to reside.

7 (C) If neither subparagraph (A) nor (B) applies, in the  
8 jurisdiction where the offense subjecting the person to registration  
9 pursuant to this Act was committed.

10 *SEC. 18. Section 836 of the Penal Code is amended to read:*

11 836. (a) A peace officer may arrest a person in obedience to  
12 a warrant, or, pursuant to the authority granted to him or her by  
13 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,  
14 without a warrant, may arrest a person whenever any of the  
15 following circumstances occur:

16 (1) The officer has probable cause to believe that the person to  
17 be arrested has committed a public offense in the officer's presence.

18 (2) The person arrested has committed a felony, although not  
19 in the officer's presence.

20 (3) The officer has probable cause to believe that the person to  
21 be arrested has committed a felony, whether or not a felony, in  
22 fact, has been committed.

23 (b) Any time a peace officer is called out on a domestic violence  
24 call, it shall be mandatory that the officer make a good faith effort  
25 to inform the victim of his or her right to make a citizen's arrest,  
26 *unless the peace officer makes an arrest for a violation of*  
27 *paragraph (1) of subdivision (e) of Section 243 or 273.5.* This  
28 information shall include advising the victim how to safely execute  
29 the arrest.

30 (c) (1) When a peace officer is responding to a call alleging a  
31 violation of a domestic violence protective or restraining order  
32 issued under Section 527.6 of the Code of Civil Procedure, the  
33 Family Code, Section 136.2, 646.91, or paragraph (2) of  
34 subdivision (a) of Section 1203.097 of this code, Section 213.5 or  
35 15657.03 of the Welfare and Institutions Code, or of a domestic  
36 violence protective or restraining order issued by the court of  
37 another state, tribe, or territory and the peace officer has probable  
38 cause to believe that the person against whom the order is issued  
39 has notice of the order and has committed an act in violation of  
40 the order, the officer shall, consistent with subdivision (b) of

1 Section 13701, make a lawful arrest of the person without a warrant  
2 and take that person into custody whether or not the violation  
3 occurred in the presence of the arresting officer. The officer shall,  
4 as soon as possible after the arrest, confirm with the appropriate  
5 authorities or the Domestic Violence Protection Order Registry  
6 maintained pursuant to Section 6380 of the Family Code that a  
7 true copy of the protective order has been registered, unless the  
8 victim provides the officer with a copy of the protective order.

9 (2) The person against whom a protective order has been issued  
10 shall be deemed to have notice of the order if the victim presents  
11 to the officer proof of service of the order, the officer confirms  
12 with the appropriate authorities that a true copy of the proof of  
13 service is on file, or the person against whom the protective order  
14 was issued was present at the protective order hearing or was  
15 informed by a peace officer of the contents of the protective order.

16 (3) In situations where mutual protective orders have been issued  
17 under Division 10 (commencing with Section 6200) of the Family  
18 Code, liability for arrest under this subdivision applies only to  
19 those persons who are reasonably believed to have been the  
20 dominant aggressor. In those situations, prior to making an arrest  
21 under this subdivision, the peace officer shall make reasonable  
22 efforts to identify, and may arrest, the dominant aggressor involved  
23 in the incident. The dominant aggressor is the person determined  
24 to be the most significant, rather than the first, aggressor. In  
25 identifying the dominant aggressor, an officer shall consider (A)  
26 the intent of the law to protect victims of domestic violence from  
27 continuing abuse, (B) the threats creating fear of physical injury,  
28 (C) the history of domestic violence between the persons involved,  
29 and (D) whether either person involved acted in self-defense.

30 (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect  
31 commits an assault or battery upon a current or former spouse,  
32 fiancé, fiancée, a current or former cohabitant as defined in Section  
33 6209 of the Family Code, a person with whom the suspect currently  
34 is having or has previously had an engagement or dating  
35 relationship, as defined in paragraph (10) of subdivision (f) of  
36 Section 243, a person with whom the suspect has parented a child,  
37 or is presumed to have parented a child pursuant to the Uniform  
38 Parentage Act (Part 3 (commencing with Section 7600) of Division  
39 12 of the Family Code), a child of the suspect, a child whose  
40 parentage by the suspect is the subject of an action under the



1 Uniform Parentage Act, a child of a person in one of the above  
2 categories, any other person related to the suspect by consanguinity  
3 or affinity within the second degree, or any person who is 65 years  
4 of age or older and who is related to the suspect by blood or legal  
5 guardianship, a peace officer may arrest the suspect without a  
6 warrant where both of the following circumstances apply:

7 (1) The peace officer has probable cause to believe that the  
8 person to be arrested has committed the assault or battery, whether  
9 or not it has in fact been committed.

10 (2) The peace officer makes the arrest as soon as probable cause  
11 arises to believe that the person to be arrested has committed the  
12 assault or battery, whether or not it has in fact been committed.

13 (e) In addition to the authority to make an arrest without a  
14 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a  
15 peace officer may, without a warrant, arrest a person for a violation  
16 of Section 25400 when all of the following apply:

17 (1) The officer has reasonable cause to believe that the person  
18 to be arrested has committed the violation of Section 25400.

19 (2) The violation of Section 25400 occurred within an airport,  
20 as defined in Section 21013 of the Public Utilities Code, in an area  
21 to which access is controlled by the inspection of persons and  
22 property.

23 (3) The peace officer makes the arrest as soon as reasonable  
24 cause arises to believe that the person to be arrested has committed  
25 the violation of Section 25400.

26 *SEC. 19. Section 916.2 of the Penal Code is amended to read:*

27 916.2. (a) Notwithstanding any other provision of law, a grand  
28 juror who is a current employee of, or a former or retired employee  
29 last employed within the prior three years by, an agency within  
30 the investigative jurisdiction of the civil grand jury shall inform  
31 the foreperson and court of that fact and shall recuse himself or  
32 herself from participating in any grand jury civil investigation of  
33 that agency, including any discussion or vote concerning a civil  
34 investigation of that agency.

35 (b) This section shall be in addition to any local policies or rules  
36 regarding conflict of interest for grand jurors.

37 (c) *For purposes of this section, "agency" means a department*  
38 *or operational part of a government entity, such as a city, county,*  
39 *city and county, school district, or other local government body.*

40 *SEC. 20. Section 964 of the Penal Code is amended to read:*

1     964. (a) In each county, the district attorney and the courts, in  
2 consultation with any local law enforcement agencies that may  
3 desire to provide information or other assistance, shall establish a  
4 mutually agreeable procedure to protect confidential personal  
5 information regarding any witness or victim contained in a police  
6 report, arrest report, or investigative report if one of these reports  
7 is submitted to a court by a prosecutor in support of a criminal  
8 complaint, indictment, or information, or by a prosecutor or law  
9 enforcement officer in support of a search warrant or an arrest  
10 warrant.

11     (b) For purposes of this section, “confidential personal  
12 information” includes, but is not limited to, an address, telephone  
13 number, driver’s license or California Identification Card number,  
14 social security number, date of birth, place of employment,  
15 employee identification number, mother’s maiden name, demand  
16 deposit account number, savings or checking account number, or  
17 credit card number.

18     (c) (1) This section may not be construed to impair or affect  
19 the provisions of Chapter 10 (commencing with Section 1054) of  
20 Title 6 of Part 2.

21     (2) This section may not be construed to impair or affect  
22 procedures regarding informant disclosure provided by Sections  
23 1040 to 1042, inclusive, of the Evidence Code, or as altering  
24 procedures regarding sealed search warrant affidavits as provided  
25 by *People v. Hobbs* (1994) 7 Cal.4th 948.

26     (3) This section shall not be construed to impair or affect a  
27 criminal defense counsel’s access to unredacted reports otherwise  
28 authorized by law, or the submission of documents in support of  
29 a civil complaint.

30     (4) This section applies as an exception to California Rule of  
31 Court ~~243.1~~ 2.550, as provided by paragraph (2) of subdivision  
32 (a) of that rule.

33     ~~SEC. 3.~~

34     *SEC. 21.* Section 1048 of the Penal Code is amended to read:

35     1048. (a) The issues on the calendar shall be disposed of in  
36 the following order, unless for good cause the court directs an  
37 action to be tried out of its order:

38         (1) Prosecutions for felony, when the defendant is in custody.

39         (2) Prosecutions for misdemeanor, when the defendant is in  
40 custody.

1 (3) Prosecutions for felony, when the defendant is on bail.

2 (4) Prosecutions for misdemeanor, when the defendant is on  
3 bail.

4 (b) Notwithstanding subdivision (a), all criminal actions in  
5 which (1) a minor is detained as a material witness or is the victim  
6 of the alleged offense, (2) a person who was 70 years of age or  
7 older at the time of the alleged offense or is a dependent adult, as  
8 defined in subdivision (h) of Section 368, was a witness to, or is  
9 the victim of, the alleged offense or (3) any person is a victim of  
10 an alleged violation of Section 261, 262, 264.1, 273a, 273d, 285,  
11 286, 288, 288a, or 289, committed by the use of force, violence,  
12 or the threat thereof, shall be given precedence over all other  
13 criminal actions in the order of trial. In those actions, continuations  
14 shall be granted by the court only after a hearing and determination  
15 of the necessity thereof, and in any event, the trial shall be  
16 commenced within 30 days after arraignment, unless for good  
17 cause the court shall direct the action to be continued, after a  
18 hearing and determination of the necessity of the continuance, and  
19 states the findings for a determination of good cause on the record.

20 (c) Nothing in this section shall be deemed to provide a statutory  
21 right to a trial within 30 days.

22 *SEC. 22. Section 3000.08 of the Penal Code, as amended by*  
23 *Section 18 of Chapter 12 of the 1st Extraordinary Session of the*  
24 *Statutes of 2011, is amended to read:*

25 3000.08. (a) Persons released from state prison prior to or on  
26 or after July 1, 2013, after serving a prison term or, whose sentence  
27 has been deemed served pursuant to Section 2900.5, for any of the  
28 following crimes shall be subject to parole supervision by the  
29 Department of Corrections and Rehabilitation and the jurisdiction  
30 of the court in the county where the parolee is released or resides  
31 for the purpose of hearing petitions to revoke parole and impose  
32 a term of custody:

33 (1) A serious felony as described in subdivision (c) of Section  
34 1192.7.

35 (2) A violent felony as described in subdivision (c) of Section  
36 667.5.

37 (3) A crime for which the person was sentenced pursuant to  
38 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
39 of subdivision (c) of Section 1170.12.

1 (4) Any crime where the person eligible for release from prison  
2 is classified as a High Risk Sex Offender.

3 (5) Any crime where the person is required, as a condition of  
4 parole, to undergo treatment by the Department of Mental Health  
5 pursuant to Section 2962.

6 (b) Notwithstanding any other provision of law, all other  
7 offenders released from prison shall be placed on postrelease  
8 supervision pursuant to Title 2.05 (commencing with Section  
9 3450).

10 (c) At any time during the period of parole of a person subject  
11 to this section, if any parole agent or peace officer has probable  
12 cause to believe that the parolee is violating any term or condition  
13 of his or her parole, the agent or officer may, without warrant or  
14 other process and at any time until the final disposition of the case,  
15 arrest the person and bring him or her before the parole authority,  
16 or the parole authority may, in its discretion, issue a warrant for  
17 that person's arrest.

18 (d) Upon review of the alleged violation and a finding of good  
19 cause that the parolee has committed a violation of law or violated  
20 his or her conditions of parole, the parole authority may impose  
21 additional and appropriate conditions of supervision, including  
22 rehabilitation and treatment services and appropriate incentives  
23 for compliance, and impose immediate, structured, and intermediate  
24 sanctions for parole violations, including flash incarceration in a  
25 county jail. Periods of "flash incarceration," as defined in  
26 subdivision (e) are encouraged as one method of punishment for  
27 violations of a parolee's conditions of parole. Nothing in this  
28 section is intended to preclude referrals to a reentry court pursuant  
29 to Section 3015.

30 (e) "Flash incarceration" is a period of detention in county jail  
31 due to a violation of a parolee's conditions of parole. The length  
32 of the detention period can range between one and 10 consecutive  
33 days. Shorter, but if necessary more frequent, periods of detention  
34 for violations of a parolee's conditions of parole shall appropriately  
35 punish a parolee while preventing the disruption in a work or home  
36 establishment that typically arises from longer periods of detention.

37 (f) If the supervising parole agency has determined, following  
38 application of its assessment processes, that intermediate sanctions  
39 up to and including flash incarceration are not appropriate, the  
40 supervising agency shall petition the revocation hearing officer

1 appointed pursuant to Section 71622.5 of the Government Code  
2 in the county in which the parolee is being supervised to revoke  
3 parole. At any point during the process initiated pursuant to this  
4 section, a parolee may waive, in writing, his or her right to counsel,  
5 admit the parole violation, waive a court hearing, and accept the  
6 proposed parole modification. The petition shall include a written  
7 report that contains additional information regarding the petition,  
8 including the relevant terms and conditions of parole, the  
9 circumstances of the alleged underlying violation, the history and  
10 background of the parolee, and any recommendations. The Judicial  
11 Council shall adopt forms and rules of court to establish uniform  
12 statewide procedures to implement this subdivision, including the  
13 minimum contents of supervision agency reports. Upon a finding  
14 that the person has violated the conditions of parole, the revocation  
15 hearing officer shall have authority to do any of the following:

16 (1) Return the person to parole supervision with modifications  
17 of conditions, if appropriate, including a period of incarceration  
18 in county jail.

19 (2) Revoke parole and order the person to confinement in the  
20 county jail.

21 (3) Refer the person to a reentry court pursuant to Section 3015  
22 or other evidence-based program in the court's discretion.

23 (g) Confinement pursuant to paragraphs (1) and (2) of  
24 subdivision (f) shall not exceed a period of 180 days in the county  
25 jail.

26 (h) Notwithstanding any other provision of law, in any case  
27 where Section 3000.1 applies to a person who is on parole and  
28 there is good cause to believe that the person has committed a  
29 violation of law or violated his or her conditions of parole, and  
30 there is imposed a period of imprisonment of longer than 30 days,  
31 that person shall be remanded to the custody of the Department of  
32 Corrections and Rehabilitation and the jurisdiction of the Board  
33 of Parole Hearings for the purpose of future parole consideration.

34 (i) Notwithstanding subdivision (a), any of the following persons  
35 released from state prison shall be subject to the jurisdiction of,  
36 and parole supervision by, the Department of Corrections and  
37 Rehabilitation for a period of parole up to three years or the parole  
38 term the person was subject to at the time of the commission of  
39 the offense, whichever is greater:

1 (1) The person is required to register as a sex offender pursuant  
2 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
3 1, and was subject to a period of parole exceeding three years at  
4 the time he or she committed a felony for which they were  
5 convicted and subsequently sentenced to state prison.

6 (2) The person was subject to parole for life pursuant to Section  
7 3000.1 at the time of the commission of the offense that resulted  
8 in a conviction and state prison sentence.

9 (j) Parolees subject to this section who are being held for a  
10 parole violation in a county jail on July 1, 2013, shall be subject  
11 to the jurisdiction of the Board of Parole Hearings.

12 (k) Except as described in subdivision ~~(e)~~ (i), any person who  
13 is convicted of a felony that requires *postrelease* community  
14 supervision and who still has a period of state parole to serve shall  
15 discharge from state parole at the time of release to *postrelease*  
16 community supervision.

17 (l) This section shall become operative on July 1, 2013.

18 SEC. 23. Section 3000.09 of the Penal Code is amended to  
19 read:

20 3000.09. (a) Notwithstanding any other law, any parolee who  
21 was paroled from state prison prior to October 1, 2011, shall be  
22 subject to this section.

23 (b) Parolees subject to this section shall remain under  
24 supervision by the Department of Corrections and Rehabilitation  
25 until one of the following occurs:

26 (1) Jurisdiction over the person is terminated by operation of  
27 law.

28 (2) The supervising agent recommends to the parole authority  
29 that the offender be discharged and the parole authority approves  
30 the discharge.

31 (3) The offender is subject to a period of parole of up to three  
32 years pursuant to paragraph (1) of subdivision (b) of Section 3000  
33 and was not imprisoned for committing a violent felony, as defined  
34 in subdivision (c) of Section 667.5, *or* a serious felony, as defined  
35 by subdivision (c) of Section 1192.7, ~~or~~ *and* is *not* required to  
36 register as a sex offender pursuant to Section 290, and completes  
37 six consecutive months of parole without violating their conditions,  
38 at which time the supervising agent shall review and make a  
39 recommendation on whether to discharge the offender to the parole  
40 authority and the parole authority approves the discharge.

(c) Parolees subject to this section who are being held for a parole violation in state prison on October 1, 2011, upon completion of a revocation term on or after November 1, 2011, shall either remain under parole supervision of the department pursuant to Section 3000.08 or shall be placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450). Notwithstanding Section 3000.08, any parolee who is in a county jail serving a term of parole revocation or being held pursuant to Section 3056 on October 1, 2011, and is released directly from county jail without returning to a state facility on or after October 1, 2011, shall remain under the parole supervision of the department. Any parolee that is pending final adjudication of a parole revocation charge prior to October 1, whether located in county jail or state prison, may be returned to state prison and shall be confined pursuant to subdivisions (a) to (d), inclusive, of Section 3057. Any subsequent parole revocations of a parolee on postrelease community supervision shall be served in county jail pursuant to Section 3056.

(d) Any parolee who was paroled prior to October 1, 2011, who commits a violation of parole shall, until July 1, 2013, be subject to parole revocation procedures in accordance with the rules and regulations of the department consistent with Division 2 of Title 15 of the California Code of Regulations. On and after July 1, 2013, any parolee who was paroled prior to October 1, 2011, shall be subject to the procedures established under Section 3000.08.

*SEC. 24. Section 3001 of the Penal Code is amended to read:*

3001. (a) Notwithstanding any other provision of law, when any person referred to in paragraph ~~(1)~~ (2) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, not imprisoned for a serious felony, as defined by subdivision (c) of Section 1192.7, or is not required to register as a sex offender pursuant to Section 290, has been released on parole from the state prison, and has been on parole continuously for six months since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph

(2) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement, or has been released on parole from the state prison for a period not exceeding five years and has been on parole continuously for three years since release from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy of that determination to the parolee.

(c) Notwithstanding any other provision of law, when any person referred to in paragraph (3) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for six years and six months since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(d) In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the maximum statutory period of parole has expired.

(e) The amendments to this section made during the 1987–88 Regular Session of the Legislature shall only be applied prospectively and shall not extend the parole period for any person whose eligibility for discharge from parole was fixed as of the effective date of those amendments.



(f) The amendments made to subdivision (a) during the 2011–12 Regular Session and the First Extraordinary Session of the Legislature shall apply prospectively from October 1, 2011, and no person on parole prior to October 1, 2011, shall be discharged from parole pursuant to subdivision (a) unless one of the following circumstances exist:

(1) The person has been on parole continuously for six consecutive months after October 1, 2011, and the person is not retained by the Board of Parole Hearings for good cause.

(2) The person has, on or after October 1, 2011, been on parole for one year and the Board of Parole Hearings does not retain the person for good cause.

*SEC. 25. Section 13885.1 of the Penal Code is amended to read:*

13885.1. The Attorney General shall maintain, upon appropriation of funds by the Legislature, a statewide Sexual Predator Apprehension Team force ~~within the California Bureau of Investigation~~. The Sexual Predator Apprehension Team force shall be comprised of ~~California Bureau of Investigation~~ special agent teams throughout California. The teams shall focus on repeat sex offenders, and perform the following activities:

(a) Coordinate state and local investigative resources to apprehend high risk sex offenders and persons required to register under Section 290 who violate the law or conditions of probation or parole.

(b) Target and monitor chronic repeat violent sex offenders before the commission of additional sexual offenses.

(c) Develop profiles in unsolved sexual assault cases.

*SEC. 26. Section 13887.2 of the Penal Code is amended to read:*

13887.2. The regional SAFE teams may consist of officers and agents from the following law enforcement agencies:

(a) Police departments.

(b) Sheriff's departments.

(c) The Bureau of Investigations of the Office of the District Attorney.

(d) County probation departments.

(e) To the extent that these agencies have available resources, the following law enforcement agencies:

- 1     (1) ~~The Bureau of Investigations of the~~ California Department
- 2     of Justice.
- 3     (2) The California Highway Patrol.
- 4     (3) The State Department of Corrections.
- 5     (4) The Federal Bureau of Investigation.

O